THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.23596 OF 2005

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Dt:03.11.2005

Between:

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D.Bharathi and another

… Petitioners

and

A.P. Residential Educational Institutions Society

And others.

… Respondents

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THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.23596 OF 2005

ORDER:

The petitioners are employed as Trained Graduate Teachers in A.P. Residential School, the first respondent. While, the first petitioner has been working in the Residential School at Keeseragutta, the second respondent was working at the School at V.M. Home. Both of them have submitted applications to the first

respondent seeking mutual transfer stating personal grounds. Through the proceedings, dated 27.10.2005, the first respondent directed mutual transfer of the petitioners and thereby the first petitioner came to be posted as Trained Graduate Teacher in Residential School at V.M. Home and the second petitioner at the School at Keesaragutta. The petitioners state that they have joined the respective places of posting.

The first respondent passed orders on the next day itself i.e. on 28.10.2005, keeping his order dated 27.10.2005, in abeyance, on the basis of certain representations received from the Teachers' Association. The said proceedings are challenged in this writ petition.

Sri D.V.Sitaram Murthy, the learned counsel for the petitioners, submits that the first petitioner had an ailing mother and the second petitioner is facing certain domestic problems, which warrant that both of them be, not shifted to different far off places in the ensuing general transfers. He submits that the mutual transfer of the petitioners did not cause any inconvenience or hardship to any other employees and there was no justification for the first respondent in passing the impugned order.

Sri Vijaya Bhaskar Moola, the learned counsel for the respondents, on the other hand, submits that the general transfers of teaching and non-teaching staff working in the institutions established by the first respondent have been pending since long and recently an order of clarification was issued by a Division Bench of this Court, paving the way for such transfers. He contends that though the order of mutual transfer was passed in favour of the petitioners, the Teachers' Union took exception to the same on the ground that the relevant vacancies would not be available for counselling in the general transfers.

If the order, dated 27.10.2005, passed by the first respondent were to have been seen in isolation, no exception can be taken to it and there would not have been any justification for the first respondent in keeping it in abeyance. However, viewed from the context of the general transfers being undertaken by the first respondent involving hundreds of employees, such selective transfers would certainly be a matter of concern for the other teachers. It was in this context that the impugned order came to be passed.

Inasmuch as the first respondent is undertaking general transfers, the claim of the

petitioners can certainly be dealt with. The petitioners would naturally be required to indicate their options in the event of their being transferred and if they indicate the same place to which they have now been transferred, there is no reason why the first respondent cannot consider the same duly taking into account the orders of priority as well as mutual convenience.

For the foregoing reasons, the writ petition is disposed of directing that:

a. the mutual transfers effected between the petitioners shall be treated as provisional and subject to the general transfers that may be effected by the first respondent.

b. the vacancies held by the petitioners shall be treated as available in the Counselling also and it shall be open to the petitioners to indicate the very place for their transfer.

c. in case, the request of the petitioners to be accommodated in the respective vacancies materialises, the impugned order shall stand set aside and the petitioners shall be entitled to continue in the existing places to which they have been posted on the basis of mutual transfer either on the basis of the order, dated 27.10.2005, or through fresh and separate orders.

d. In case, the choice of the petitioners as indicated above does not materialise, the case of the petitioners shall be considered for being posted at place as near as possible to the existing places of working.

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03.11.2005

Note: Issue C.C. in two days.

(B/o)

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